

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Donnell J. Brown, #293480,)	C/A No.: 3:09-2240-JFA-JRM
)	
Plaintiff,)	
vs.)	ORDER
)	
The South Carolina Department of Corrections;)	
Jon Ozmint,)	
Defendants.)	
_____)	

The *pro se* plaintiff, Donnell J. Brown, is an inmate at the Allendale Correctional Institution, a facility of the South Carolina Department of Corrections (“SCDC”). He initiated this action pursuant to 42 U.S.C. § 1983 challenging the SCDC’s policies and procedures. Specifically, plaintiff contends that he, as an inmate convicted of institutional sexual misconduct, must wear a pink jumpsuit and this violates his equal protection rights and subjects him to cruel and unusual punishment.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein he suggests that this court should summarily dismiss SCDC from the case. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation. The plaintiff did not file objections to

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

the Report and Recommendation.

In the Report, the Magistrate Judge correctly suggests that defendant State of South Carolina is immune from suit under the Eleventh Amendment to the United States Constitution. *Edelman v. Jordan*, 415 U.S. 651, 663 (1974).

After a careful review of the record, the applicable law, and the Report, the court finds the Magistrate Judge's recommendation to be proper and the Report is incorporated herein by reference. Accordingly, this action is dismissed without prejudice and without issuance and service of process as to defendant South Carolina Department of Corrections only.

The Clerk shall return this case to the Magistrate Judge for further proceedings and for service of process on defendant Jon Ozmint.

IT IS SO ORDERED.

September 29, 2009
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge